IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (Lodg.) NO. 2428 OF 2005

Guddi Begum Sher Mohammed
Shaikh and others. ... Petitioners

Versus.

CEO, Slum Development Authority
and others. ... Respondents.

Shri Asif Iqbal Patel for the Petitioners.

Shri S.V.Chavan for the respondents 1 & 2.

Ms.P.A.Purandare for respondent 3.

Shri Vinit Naik for the Respondent No.4.

Shri I.P.Diruze for respondent 5.

CORAM : SMT.RANJANA DESAI &
ABHAY S. OKA, JJ.

DATED : 24th November, 2005.

P.C.:

1. The Petitioners have interalia prayed that annexure II prepared by the respondents which is at Exh.R to the petition be cancelled and it may be declared that the petitioners are entitled to commercial premises and not residential-cum-commercial premises. It is not disputed that the petitioners have been allotted residential-cum-commercial premises admeasuring 225 sq.ft.

2. We have heard the learned Counsel for the petitioners and the learned Counsel for the respondents. The learned Counsel for the respondents has drawn our

attention to Writ Petition No.2258 of 2005 which was filed by the present petitioners. Identical prayers were made in the said petition. Admittedly the said petition pertained to the same property. We are informed that the said petition was unconditionally withdrawn by the petitioners on 24th August 2005.

3. We are distressed to note that this very important fact is not mentioned in the present petition wherein same prayers are made. We feel that on this ground alone this petition should be dismissed. The petitioners are guilty of suppression of very important fact. Besides, we find that there is great variance between the averments made in the earlier writ petition and the present writ petition. It is nowhere stated in the earlier writ petition that petitioner 2 is in possession of one distinct tenement and his wife, petitioner 1, is in possession of another premises. In view of this and considering the fact that the petitioners have already been allotted residential-cum-commercial premises, in our opinion, this petition cannot be entertained. The petition is, therefore, rejected.

(Smt.Ranjana Desai, J.)

(Abhay S.Oka, J.)